

**IN THE HIGH COURT OF JUDICATURE, ANDHRA
PRADESH
AT HYDERABAD**

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.25210 OF 1997

Dated: February 07, 2007

Between:

Divisional Railway Manager, Secunderabad
Division, South Central Railway, Secunderabad,
And another.

... Petitioners

And

Mandal Revenue officer, Bellampalli mandal,
Bellampalli, Adilabad District, and others.

... Respondents

Order:

The Divisional Railway Manager, Secunderabad
Division, South Central Railway, Secunderabad, and
another, have filed this Writ Petition seeking directions
by way of Mandamus to restrain the respondents from
interfering with the possession and enjoyment of the
land surrounded by boundary wall, boundary posts,
compound wall, 53 quarters of employees and other
buildings, running from North to South and on the
Western side of the Bellampally Railway Station,

Adilabad District.

2. In the affidavit filed in support of the Writ Petition, it is stated that Bellampalli Railway Station is situated on the railway section of Kazipet - Balharshah and from South to North and also on the Western side of the station, there are structures raised by the South Central Railway, namely, quarters of employees, microwave station, school, hospital and other buildings which have been constructed in the land of Railways and they have been in existence since last more than three decades. The case of petitioners is that the first respondent, the Mandal Revenue Officer, Bellampalli Mandal, without any intimation or notice to them, demolished a portion of the compound wall and some of the quarters located on the Southern side of the station, on 27-08-1997, for the alleged purpose of road widening. Precisely, their case is that the aforesaid structures, which have been raised for public purposes, have been constructed in the land of Railways, and they have been in possession of the same since a long time. Their grievance is that respondents, without issuing any notice or opportunity to them, have demolished certain portion of the structures raised by them and unless due process of law is followed to acquire the property or their consent is obtained, respondents cannot do so without any authority of law.

3. Heard Mr. Gourishankar Sanghi, learned counsel for petitioners and learned Government Pleader for

Revenue for respondents 1 to 3.

4. Respondents 1 to 3 filed counter affidavit stating that a day prior to 27-09-1997; an announcement was made for removal of the encroachments which are coming in the way of road widening. It is stated that the officers belonging to the Railways were informed that Sy.No.11, which is a Poramboke land, has been encroached by the Railway Department and as such proceedings were taken up under the provisions of the A.P. Land Encroachment Act, 1905 ('the Act' for brevity) and notice dated 28-09-1997 was issued under Section 7 of the Act.

5. From the averments made in the counter affidavit, it is seen that the area in which petitioners raised structures is a Poramboke land and hence they were sought to be removed. Whereas, it is the case of petitioners that the said structures have been constructed in their own land and they have been in existence for the last more than three decades and they include quarters of employees, microwave station, school, hospital and other buildings. If for any reason, the aforesaid structures are raised by encroaching into Government land, respondents should have initiated appropriate proceedings under the Act and passed final orders. But, it is to be seen that respondents have demolished a part of the compound wall of the Railways on 27-09-1997 and initiated proceedings under the Act, thereafter, on 28-09-1997. Even according to the averments made in the counter affidavit, no final orders

have been passed and the notice issued by the respondents under Section 7 of the Act is in the nature of a show cause notice, on the basis of which, no action can be taken. As much as proceedings have already been initiated under the Act, I dispose of the Writ Petition directing the respondents not to deprive the aforesaid property of the petitioners at Bellampally Railway Station, Adilabad, without following due process of law. Further, with reference to the proceedings already initiated under the Act, it is open for the respondents to pass appropriate orders and communicate the same to petitioners. It is made clear that if the land of petitioners is required for any public purpose, it is open for the respondents either to take consent from them or acquire the same under the provisions of the Land Acquisition Act, 1894. No costs.

JUSTICE R. SUBHASH REDDY.

February 07, 2007
MRR